



General Assembly

**Substitute Bill No. 6526**

January Session, 2011

\* \_\_\_\_HB06526CE\_\_\_\_032211\_\_\_\_ \*

**AN ACT CONCERNING BROWNFIELD REMEDIATION AND  
DEVELOPMENT AS AN ECONOMIC DRIVER.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 32-9cc of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective July 1, 2011*):

3 (a) There is established, within the Department of Economic and  
4 Community Development, an Office of Brownfield Remediation and  
5 Development. In addition to the other powers, duties and  
6 responsibilities provided for in this chapter, the office shall promote  
7 and encourage the development and redevelopment of brownfields in  
8 the state. For that purpose, the Commissioner of Economic and  
9 Community Development shall appoint a director who shall oversee  
10 all activities of the office and who shall report to the commissioner.  
11 The director shall coordinate and cooperate with state and local  
12 agencies and individuals within the state on brownfield  
13 redevelopment initiatives, including program development and  
14 administration, community outreach, regional coordination and  
15 seeking federal funding opportunities. The commissioner shall make  
16 available to the director appropriate staffing, technical and financial  
17 assistance and advisory services necessary to accomplish the duties of  
18 the office.

19 (b) The office shall:

20 (1) Develop procedures and policies for streamlining the process for  
21 brownfield remediation and development;

22 (2) Identify existing and potential sources of funding for brownfield  
23 remediation and develop procedures for expediting the application for  
24 and release of such funds;

25 (3) Establish an office and maintain an informational Internet web  
26 site to provide assistance and information concerning the state's  
27 technical assistance, funding, regulatory and permitting programs;

28 (4) Provide a single point of contact for financial and technical  
29 assistance from the state and quasi-public agencies;

30 (5) Develop a common application to be used by all state and quasi-  
31 public entities providing financial assistance for brownfield  
32 assessment, remediation and development; and

33 (6) Identify and prioritize state-wide brownfield development  
34 opportunities; and

35 (7) Develop and execute a communication and outreach program to  
36 educate municipalities, economic development agencies, property  
37 owners and potential property owners and other organizations and  
38 individuals with regard to state [policies and procedures] programs for  
39 brownfield remediation and redevelopment.

40 (c) Subject to the availability of funds, there shall be a state-funded  
41 [pilot] municipal brownfield grant program to identify brownfield  
42 remediation economic opportunities in [five] Connecticut  
43 municipalities. For each round of funding, the Commissioner of  
44 Economic and Community Development may select at least six  
45 municipalities, one of which shall have a population of less than fifty  
46 thousand, one of which shall have a population of more than fifty  
47 thousand but less than one hundred thousand, two of which shall have  
48 populations of more than one hundred thousand and [one] two of  
49 which shall be selected without regard to population. The

50 Commissioner of Economic and Community Development shall  
51 designate [five pilot] municipalities in which untreated brownfields  
52 hinder economic development and shall make grants under such  
53 [pilot] program to these municipalities or economic development  
54 agencies associated with each of the [five] selected municipalities that  
55 are likely to produce significant economic development benefit for the  
56 designated municipality.

57 (d) The Department of Environmental Protection, the Connecticut  
58 Development Authority, the Office of Policy and Management and the  
59 Department of Public Health shall each designate one or more staff  
60 members to act as a liaison between their offices and the Office of  
61 Brownfield Remediation and Development. The Commissioners of  
62 Economic and Community Development, Environmental Protection  
63 and Public Health, the Secretary of the Office of Policy and  
64 Management and the executive director of the Connecticut  
65 Development Authority shall enter into a memorandum of  
66 understanding concerning each entity's responsibilities with respect to  
67 the Office of Brownfield Remediation and Development. The Office of  
68 Brownfield Remediation and Development may [develop and] recruit  
69 two volunteers from the private sector, including a person from the  
70 Connecticut chapter of the National Brownfield Association, with  
71 experience in different aspects of brownfield remediation and  
72 development. Said volunteers may assist the Office of Brownfield  
73 Remediation and Development in [achieving the goals of this section]  
74 marketing the brownfields programs and activities of the state.

75 (e) The Office of Brownfield Remediation and Development may  
76 call upon any other department, board, commission or other agency of  
77 the state to supply such reports, information and assistance as said  
78 office determines is appropriate to carry out its duties and  
79 responsibilities. Each officer or employee of such office, department,  
80 board, commission or other agency of the state is authorized and  
81 directed to cooperate with the Office of Brownfield Remediation and  
82 Development and to furnish such reports, information and assistance.

83 (f) Brownfield sites identified for funding under the [pilot] grant  
84 program established in subsection (c) of this section shall receive  
85 priority review status from the Department of Environmental  
86 Protection. Each property funded under this program shall be  
87 investigated in accordance with prevailing standards and guidelines  
88 and remediated in accordance with the regulations established for the  
89 remediation of such sites adopted by the Commissioner of  
90 Environmental Protection or pursuant to section 22a-133k, as amended  
91 by this act, and under the supervision of the department or a licensed  
92 environmental professional in accordance with the voluntary  
93 remediation program established in section 22a-133x. In either event,  
94 the department shall determine that remediation of the property has  
95 been fully implemented or that an audit will not be conducted upon  
96 submission of a report indicating that remediation has been verified by  
97 an environmental professional licensed in accordance with section 22a-  
98 133v. Not later than ninety days after submission of the verification  
99 report, the Commissioner of Environmental Protection shall notify the  
100 municipality or economic development agency as to whether the  
101 remediation has been performed and completed in accordance with  
102 the remediation standards, whether an audit will not be conducted, or  
103 whether any additional remediation is warranted. For purposes of  
104 acknowledging that the remediation is complete, the commissioner or  
105 a licensed environmental professional may indicate that all actions to  
106 remediate any pollution caused by any release have been taken in  
107 accordance with the remediation standards and that no further  
108 remediation is necessary to achieve compliance except  
109 postremediation monitoring [,] or natural attenuation monitoring. [or  
110 the recording of an environmental land use restriction.]

111 (g) All relevant terms in this subsection, subsection (h) of this  
112 section [,] and sections 32-9dd to 32-9ff, inclusive, as amended by this  
113 act, [and section 11 of public act 06-184] shall be defined in accordance  
114 with the definitions in chapter 445. For purposes of subdivision (12) of  
115 subsection (a) of section 32-9t, this subsection, subsection (h) of this  
116 section [,] and sections 32-9dd to 32-9gg, inclusive, [and section 11 of

117 public act 06-184,] "brownfields" means any abandoned or  
118 underutilized site where redevelopment, [and] reuse [has not occurred  
119 due to] or expansion may be complicated by the presence of pollution  
120 in the buildings, soil or groundwater that requires investigation or  
121 remediation [prior to] before or in conjunction with the restoration,  
122 redevelopment [and] or reuse or expansion of the property.

123 (h) The Departments of Economic and Community Development  
124 and Environmental Protection shall administer the provisions of  
125 subdivision (1) of section 22a-134, as amended by this act, section 32-  
126 1m, subdivision (12) of subsection (a) of section 32-9t [,] and sections  
127 32-9cc to 32-9gg, inclusive, as amended by this act, [and section 11 of  
128 public act 06-184] within available appropriations and any funds  
129 allocated pursuant to sections 4-66c, 22a-133t and 32-9t.

130 Sec. 2. Section 32-9ee of the general statutes is repealed and the  
131 following is substituted in lieu thereof (*Effective July 1, 2011*):

132 (a) Any municipality, economic development agency or entity  
133 established under chapter 130 or 132, nonprofit economic development  
134 corporation formed to promote the common good, general welfare and  
135 economic development of a municipality that is funded, either directly  
136 or through in-kind services, in part by a municipality, or a nonstock  
137 corporation or limited liability company controlled or established by a  
138 municipality, municipal economic development agency or entity  
139 created or operating under chapter 130 or 132 that receives grants  
140 through the Office of Brownfield Remediation and Development or the  
141 Department of Economic and Community Development, including  
142 those municipalities designated by the Commissioner of Economic and  
143 Community Development as part of the [pilot] municipal brownfield  
144 grant program established in subsection (c) of section 32-9cc, as  
145 amended by this act, for the investigation and remediation of a  
146 brownfield property shall be considered an innocent party and shall  
147 not be liable under section 22a-432, 22a-433, 22a-451 or 22a-452 for  
148 conditions pre-existing or existing on the brownfield property as of the  
149 date of acquisition or control as long as the municipality, economic

150 development agency or entity established under chapter 130 or 132,  
151 nonprofit economic development corporation formed to promote the  
152 common good, general welfare and economic development of a  
153 municipality that is funded, either directly or through in-kind services,  
154 in part by a municipality, or a nonstock corporation or limited liability  
155 company controlled or established by a municipality, municipal  
156 economic development agency or entity created or operating under  
157 chapter 130 or 132 did not establish, cause or contribute to the  
158 discharge, spillage, uncontrolled loss, seepage or filtration of such  
159 hazardous substance, material, waste or pollution that is subject to  
160 remediation under section 22a-133k, as amended by this act, and  
161 funded by the Office of Brownfield Remediation and Development or  
162 the Department of Economic and Community Development; does not  
163 exacerbate the conditions; and complies with reporting of significant  
164 environmental hazard requirements in section 22a-6u. To the extent  
165 that any conditions are exacerbated, the municipality, economic  
166 development agency or entity established under chapter 130 or 132,  
167 nonprofit economic development corporation formed to promote the  
168 common good, general welfare and economic development of a  
169 municipality that is funded, either directly or through in-kind services,  
170 in part by a municipality, or nonstock corporation or limited liability  
171 company controlled or established by a municipality, municipal  
172 economic development agency or entity created or operating under  
173 chapter 130 or 132 shall only be responsible for responding to  
174 contamination exacerbated by its negligent or reckless activities.

175 (b) In determining what funds shall be made available for an  
176 eligible brownfield remediation, the Commissioner of Economic and  
177 Community Development shall consider (1) the economic  
178 development opportunities such reuse and redevelopment may  
179 provide, (2) the feasibility of the project, (3) the environmental and  
180 public health benefits of the project, and (4) the contribution of the  
181 reuse and redevelopment to the municipality's tax base.

182 (c) No person shall acquire title to or hold, possess or maintain any  
183 interest in a property that has been remediated in accordance with the

184 [pilot] municipal brownfield grant program established in subsection  
185 (c) of section 32-9cc, as amended by this act, if such person (1) is liable  
186 under section 22a-432, 22a-433, 22a-451 or 22a-452; (2) is otherwise  
187 responsible, directly or indirectly, for the discharge, spillage,  
188 uncontrolled loss, seepage or filtration of such hazardous substance,  
189 material or waste; (3) is a member, officer, manager, director,  
190 shareholder, subsidiary, successor of, related to, or affiliated with,  
191 directly or indirectly, the person who is otherwise liable to under  
192 section 22a-432, 22a-433, 22a-451 or 22a-452; or (4) is or was an owner,  
193 operator or tenant. If such person elects to acquire title to or hold,  
194 possess or maintain any interest in the property, that person shall  
195 reimburse the state of Connecticut, the municipality and the economic  
196 development agency for any and all costs expended to perform the  
197 investigation and remediation of the property, plus interest at a rate of  
198 eighteen per cent.

199 Sec. 3. Section 32-9ff of the general statutes is repealed and the  
200 following is substituted in lieu thereof (*Effective July 1, 2011*):

201 (a) There is established an account to be known as the "Connecticut  
202 brownfields remediation account" which shall be a separate,  
203 nonlapsing account within the General Fund. The account shall  
204 contain any moneys required by law to be deposited in the account  
205 and shall be held separate and apart from other moneys, funds and  
206 accounts. Investment earnings credited to the account shall become  
207 part of the assets of the account. Any balance remaining in the account  
208 at the end of any fiscal year shall be carried forward in the account for  
209 the next fiscal year.

210 (b) The Office of Brownfield Remediation and Development,  
211 established in subsections (a) to (f), inclusive, of section 32-9cc, as  
212 amended by this act, may use amounts in the account established  
213 pursuant to subsection (a) of this section to fund remediation and  
214 restoration of brownfield sites as part of the [pilot] municipal  
215 brownfield grant program established in subsection (c) of section 32-  
216 9cc, as amended by this act.

217 Sec. 4. Section 22a-134a of the general statutes is amended by adding  
218 subsection (n) as follows (*Effective from passage*):

219 (NEW) (n) Notwithstanding any other provision of this section, the  
220 execution of a Form III or a Form IV shall not require a certifying party  
221 to investigate or remediate any release or potential release of pollution  
222 at the parcel that occurs from and after the date of the transfer of  
223 establishment for which such Form III or Form IV was signed or from  
224 and after the date such Form III or Form IV was filed with the  
225 commissioner, whichever is later.

226 Sec. 5. Section 22a-133k of the general statutes is amended by  
227 adding subsection (c) as follows (*Effective from passage*):

228 (NEW) (c) The commissioner shall review and recommend revisions  
229 to the standards for the remediation of environmental pollution at  
230 hazardous waste disposal sites and other properties which have been  
231 subject to a spill, as defined in section 22a-452c, as have been adopted  
232 pursuant to subsection (a) of this section three years after the effective  
233 date of this section. Every five years thereafter, the commissioner shall  
234 hold a public hearing on the adequacy of such standards and shall  
235 revise such standards as may be deemed necessary to ensure that the  
236 regulations shall fully protect health, public welfare and the  
237 environment, with due consideration of the impact of such standards  
238 on brownfield remediation and redevelopment and the remediation of  
239 other contaminated properties in the state, the feasibility of such  
240 regulations, and the consistency of such regulations with the best  
241 scientifically available information and the standards and methods  
242 adopted by the federal government.

243 Sec. 6. Section 22a-426 of the general statutes, as amended by section  
244 9 of public act 10-158, is amended by adding subsections (d) to (g),  
245 inclusive, as follows (*Effective from passage*):

246 (NEW) (d) The state's water quality standards, including the surface  
247 and ground water classifications, in effect on February 28, 2011, shall  
248 remain in full force and effect, unless modified in accordance with



249 subsections (a), (e), (f) and (g) of this section. On or after March 1, 2011,  
250 the commissioner may reclassify surface or ground waters within the  
251 state in accordance with the procedures specified in subsections (e), (f)  
252 and (g) of this section.

253 (NEW) (e) Notwithstanding the provisions of subsection (a) of this  
254 section and chapter 54, the following procedures shall apply to any  
255 surface or ground water reclassification initiated by the commissioner:  
256 (1) The commissioner shall hold a public hearing in accordance with  
257 subdivision (3) of subsection (f) of this section. Such public hearing  
258 shall not be considered a contested case pursuant to chapter 54; (2)  
259 notice of such hearing specifying the surface or ground waters for  
260 which reclassification is proposed and the time, date and place of such  
261 hearing and how members of the public may obtain additional  
262 information regarding such reclassification shall be published once in a  
263 newspaper having a substantial circulation in the affected area at least  
264 thirty days before such hearing; and (3) notice of the time, date and  
265 place of such hearing shall also be provided to municipal officials.  
266 Following the public hearing, the commissioner shall provide notice of  
267 the reclassification decision in the Connecticut Law Journal and to the  
268 chief elected official and the director of health of each municipality in  
269 which the water affected by such reclassification is located.

270 (NEW) (f) Notwithstanding the provisions of subsection (a) of this  
271 section and chapter 54, the following procedures shall apply to any  
272 surface or groundwater reclassification requested by a person other  
273 than the commissioner: (1) Any person seeking a reclassification shall  
274 apply to the commissioner on forms prescribed by the commissioner  
275 and shall provide the information required by such forms; (2) at least  
276 thirty days before the hearing specified in subdivision (3) of this  
277 subsection, the commissioner shall publish or cause to be published, at  
278 the expense of the person seeking a reclassification, once in a  
279 newspaper having a substantial circulation in the affected area (A) the  
280 name of the person seeking a reclassification, (B) an identification of  
281 the surface or ground waters affected by such reclassification, (C)  
282 notice of the commissioner's tentative determination regarding such

283 reclassification, (D) how members of the public may obtain additional  
284 information regarding such reclassification, and (E) the time, date and  
285 place of a public hearing regarding such reclassification. Any such  
286 notice shall also be given by certified mail to the chief executive officer  
287 of each municipality in which the water affected by such  
288 reclassification is located, with a copy to the director of health of each  
289 municipality, at least thirty days before the hearing; (3) the  
290 commissioner shall conduct a public hearing regarding any tentative  
291 determination to reclassify surface or ground waters. The public  
292 hearing shall be conducted in a manner which affords all interested  
293 persons reasonable opportunity to provide oral or written comments  
294 and the commissioner shall maintain a recording of the hearing; and  
295 (4) following the public hearing, the commissioner shall provide notice  
296 of the reclassification decision in the Connecticut Law Journal and to  
297 the chief elected official and the director of health of each municipality  
298 in which the water affected by such reclassification is located.

299 (NEW) (g) Any decision by the commissioner to reclassify surface or  
300 ground water shall be consistent with the state's water quality  
301 standards and the commissioner shall comply with all applicable  
302 federal requirements regarding reclassification of surface water.

303 Sec. 7. (*Effective from passage*) Not later than seven days after the  
304 effective date of this section, within available resources, the  
305 Commissioner of Environmental Protection shall commence a  
306 comprehensive evaluation of the property remediation programs and  
307 the provisions of the general statutes that affect property remediation.  
308 Not later than February 1, 2012, the commissioner shall issue a  
309 comprehensive report, in accordance with section 11-4a of the general  
310 statutes, to the Governor and to the joint standing committees of the  
311 General Assembly having cognizance of matters relating to the  
312 environment and commerce. The evaluation shall include (1) factors  
313 that influence the length of time to complete investigation and  
314 remediation under existing programs; (2) the number of properties  
315 that have entered into each property remediation program, the rate by  
316 which properties enter and the number of properties that have

317 completed the requirements of each property remediation program; (3)  
318 the use of licensed environmental professionals in expediting property  
319 remediation; (4) audits of verifications rendered by licensed  
320 environmental professionals; (5) the programs provided for in chapters  
321 445 and 446k of the general statutes that provide liability relief for  
322 potential and existing property owners; (6) a comparison of existing  
323 programs to states with a single remediation program; (7) the use by  
324 the commissioner of resources when adopting regulations such as  
325 studies published by other federal and state agencies, the Connecticut  
326 Academy of Science and Engineering or other such research  
327 organization and university studies; and (8) recommendations that will  
328 address issues identified in the report or improvements that may be  
329 necessary for a more streamlined or efficient remediation process.

330 Sec. 8. Subdivision (1) of subsection (a) of section 32-9kk of the  
331 general statutes is repealed and the following is substituted in lieu  
332 thereof (*Effective July 1, 2011*):

333 (1) "Brownfield" means any abandoned or underutilized site where  
334 redevelopment, [and reuse has not occurred due to] reuse or expansion  
335 may be complicated by the presence or potential presence of pollution  
336 in the buildings, soil or groundwater that requires investigation or  
337 remediation before or in conjunction with the restoration,  
338 redevelopment and reuse of the property;

339 Sec. 9. Section 22a-6 of the general statutes is amended by adding  
340 subsections (i) and (j) as follows (*Effective from passage*):

341 (NEW) (i) Notwithstanding the provisions of subsection (a) of this  
342 section, no person shall be required to pay any fee established by the  
343 commissioner pursuant to section 22a-133x, 22a-133aa, as amended by  
344 this act, 22a-134a, as amended by this act, or 22a-134e for any new or  
345 pending application, provided such person has received financial  
346 assistance from any department, institution, agency or authority of the  
347 state for the purpose of investigation or remediation, or both, of a  
348 brownfield site, as defined in section 32-9kk, as amended by this act,

349 and such activity would otherwise require a fee to be paid to the  
350 commissioner for the activity conducted with such financial assistance.

351 (NEW) (j) Notwithstanding the provisions of subsection (a) of this  
352 section, no department, institution, agency or authority of the state or  
353 the state system of higher education shall be required to pay any fee  
354 established by the commissioner pursuant to section 22a-133x, 22a-  
355 133aa, as amended by this act, 22a-134a, as amended by this act, or 22a-  
356 134e for any new or pending application, provided such division of the  
357 state is conducting an investigation or remediation, or both, of a  
358 brownfield site, as defined in section 32-9kk, as amended by this act,  
359 and siting a state facility on such brownfield site.

360 Sec. 10. Section 32-9ll of the general statutes is repealed and the  
361 following is substituted in lieu thereof (*Effective July 1, 2011*):

362 (a) There is established an abandoned brownfield cleanup program.  
363 The Commissioner of Economic and Community Development shall  
364 determine, in consultation with the Commissioner of Environmental  
365 Protection, properties and persons eligible for said program.

366 (b) For a person, [and] a municipality or a property to be eligible,  
367 the Commissioner of Economic and Community Development shall  
368 determine if (1) the property is a brownfield, as defined in section 32-  
369 9kk, as amended by this act, and such property has been unused or  
370 significantly underused [since October 1, 1999] for at least five years  
371 before an application filed with the commissioner pursuant to  
372 subsection (g) of this section; (2) such person or municipality intends  
373 to acquire title to such property for the purpose of redeveloping such  
374 property; (3) the redevelopment of such property has a regional or  
375 municipal economic development benefit; (4) such person or  
376 municipality did not establish or create a facility or condition at or on  
377 such property that can reasonably be expected to create a source of  
378 pollution to the waters of the state for the purposes of section 22a-432  
379 and is not affiliated with any person responsible for such pollution or  
380 source of pollution through any direct or indirect familial relationship

381 or any contractual, corporate or financial relationship other than a  
382 relationship by which such owner's interest in such property is to be  
383 conveyed or financed; (5) such person or municipality is not otherwise  
384 required by law, an order or consent order issued by the  
385 Commissioner of Environmental Protection or a stipulated judgment  
386 to remediate pollution on or emanating from such property; (6) the  
387 person responsible for pollution on or emanating from the property is  
388 indeterminable, is no longer in existence, is required by law to  
389 remediate releases on and emanating from the property or is otherwise  
390 unable to perform necessary remediation of such property; and (7) the  
391 property and the person meet any other criteria said commissioner  
392 deems necessary.

393 (c) For the purposes of this section, "municipality" means a  
394 municipality, economic development agency or entity established  
395 under chapter 130 or 132, nonprofit economic development  
396 corporation formed to promote the common good, general welfare and  
397 economic development of a municipality that is funded, either directly  
398 or through in-kind services, in part by a municipality, or a nonstock  
399 corporation or limited liability company controlled or established by a  
400 municipality, municipal economic development agency or entity  
401 created or operating under chapter 130 or 132.

402 (d) Notwithstanding the provisions of subsection (b) of this section,  
403 a property owned by a municipality shall not be subject to subdivision  
404 (6) of subsection (b) of this section.

405 (e) Notwithstanding the provisions of subsection (b) of this section,  
406 a municipality may request the Commissioner of Economic and  
407 Community Development to determine if a property is eligible  
408 regardless of the person who currently owns such property.

409 [(b)] (f) Upon designation by the Commissioner of Economic and  
410 Community Development of an eligible person [who] or municipality  
411 that holds title to such property, such eligible person or municipality  
412 shall (1) enter and remain in the voluntary remediation program

413 established in section 22a-133x, provided such person will not be a  
414 certifying party for the property pursuant to section 22a-134, as  
415 amended by this act, when acquiring such property; (2) investigate  
416 pollution on such property in accordance with prevailing standards  
417 and guidelines and remediate pollution on such property in  
418 accordance with regulations established for remediation adopted by  
419 the Commissioner of Environmental Protection and in accordance with  
420 applicable schedules; and (3) eliminate further emanation or migration  
421 of any pollution from such property. An eligible person who has been  
422 accepted by the commissioner or who holds title to an eligible property  
423 designated to be in the abandoned [brownfields] brownfield cleanup  
424 program shall not be responsible for investigating or remediating any  
425 pollution or source of pollution that has emanated from such property  
426 prior to such person taking title to such property.

427 [(c)] (g) Any applicant seeking a designation of eligibility for a  
428 person or a property under the abandoned brownfields cleanup  
429 program shall apply to the Commissioner of Economic and  
430 Community Development at such times and on such forms as the  
431 commissioner may prescribe.

432 [(d)] (h) Not later than sixty days after receipt of the application, the  
433 Commissioner of Economic and Community Development shall  
434 determine if the application is complete and shall notify the applicant  
435 of such determination.

436 [(e)] (i) Not later than ninety days after determining that the  
437 application is complete, the Commissioner of Economic and  
438 Community Development shall determine whether to include the  
439 property and applicant in the abandoned brownfields cleanup  
440 program.

441 [(f)] (j) Designation of a property in the abandoned [brownfields]  
442 brownfield cleanup program by the Commissioner of Economic and  
443 Community Development shall not limit the applicant's or any other  
444 person's ability to seek funding for such property under any other

445 brownfield grant or loan program administered by the Department of  
446 Economic and Community Development, the Connecticut  
447 Development Authority or the Department of Environmental  
448 Protection.

449 (k) Designation of a property in the abandoned brownfield cleanup  
450 program by the Commissioner of Economic and Community  
451 Development shall exempt such eligible person or eligible  
452 municipality from filing as an establishment pursuant to sections 22a-  
453 134a to 22a-134d, inclusive, as amended by this act, if such real  
454 property or prior business operations constitute an establishment.

455 (l) Upon completion of the requirements of subsection (e) of this  
456 section to the satisfaction of the Commissioner of Environmental  
457 Protection, such person or municipality shall qualify for a covenant not  
458 to sue from the Commissioner of Environmental Protection without  
459 fee, pursuant to section 22a-133aa, as amended by this act.

460 (m) Any person or municipality designated as an eligible person  
461 under the abandoned brownfield cleanup program shall be considered  
462 an innocent party and shall not be liable to the Commissioner of  
463 Environmental Protection or any person under section 22a-432, 22a-  
464 433, 22a-451 or 22a-452 or other similar statute or common law for  
465 conditions preexisting or existing on the brownfield property as of the  
466 date of acquisition or control as long as the person or municipality (1)  
467 did not establish, cause or contribute to the discharge, spillage,  
468 uncontrolled loss, seepage or filtration of such hazardous substance,  
469 material, waste or pollution; (2) does not exacerbate the conditions;  
470 and (3) complies with reporting of significant environmental hazard  
471 requirements in section 22a-6u. To the extent that any conditions are  
472 exacerbated, the person or municipality shall only be responsible for  
473 responding to contamination exacerbated by its negligent or reckless  
474 activities.

475 Sec. 11. Subdivision (1) of section 22a-134 of the general statutes is  
476 repealed and the following is substituted in lieu thereof (*Effective from*

477 *passage*):

478 (1) "Transfer of establishment" means any transaction or proceeding  
479 through which an establishment undergoes a change in ownership, but  
480 does not mean:

481 (A) Conveyance or extinguishment of an easement;

482 (B) Conveyance of an establishment through a foreclosure, as  
483 defined in subsection (b) of section 22a-452f, foreclosure of a municipal  
484 tax lien or through a tax warrant sale pursuant to section 12-157, an  
485 exercise of eminent domain pursuant to section 8-128, 8-169e or 8-193  
486 or by condemnation pursuant to section 32-224 or purchase pursuant  
487 to a resolution by the legislative body of a municipality authorizing the  
488 acquisition through eminent domain for establishments that also meet  
489 the definition of a brownfield as defined in section 32-9kk or a  
490 subsequent transfer by such municipality that has foreclosed on the  
491 property, foreclosed municipal tax liens or that has acquired title to the  
492 property through section 12-157, or is within the pilot program  
493 established in subsection (c) of section 32-9cc, or has acquired such  
494 property through the exercise of eminent domain pursuant to section  
495 8-128, 8-169e or 8-193 or by condemnation pursuant to section 32-224  
496 or a resolution adopted in accordance with this subparagraph,  
497 provided (i) the party acquiring the property from the municipality  
498 did not establish, create or contribute to the contamination at the  
499 establishment and is not affiliated with any person who established,  
500 created or contributed to such contamination or with any person who  
501 is or was an owner or certifying party for the establishment, and (ii) on  
502 or before the date the party acquires the property from the  
503 municipality, such party or municipality enters and subsequently  
504 remains in the voluntary remediation program administered by the  
505 commissioner pursuant to section 22a-133x and remains in compliance  
506 with schedules and approvals issued by the commissioner. For  
507 purposes of this subparagraph, subsequent transfer by a municipality  
508 includes any transfer to, from or between a municipality, municipal  
509 economic development agency or entity created or operating under



510 chapter 130 or 132, a nonprofit economic development corporation  
511 formed to promote the common good, general welfare and economic  
512 development of a municipality that is funded, either directly or  
513 through in-kind services, in part by a municipality, or a nonstock  
514 corporation or limited liability company controlled or established by a  
515 municipality, municipal economic development agency or entity  
516 created or operating under chapter 130 or 132;

517 (C) Conveyance of a deed in lieu of foreclosure to a lender, as  
518 defined in and that qualifies for the secured lender exemption  
519 pursuant to subsection (b) of section 22a-452f;

520 (D) Conveyance of a security interest, as defined in subdivision (7)  
521 of subsection (b) of section 22a-452f;

522 (E) Termination of a lease and conveyance, assignment or execution  
523 of a lease for a period less than ninety-nine years including  
524 conveyance, assignment or execution of a lease with options or similar  
525 terms that will extend the period of the leasehold to ninety-nine years,  
526 or from the commencement of the leasehold, ninety-nine years,  
527 including conveyance, assignment or execution of a lease with options  
528 or similar terms that will extend the period of the leasehold to ninety-  
529 nine years, or from the commencement of the leasehold;

530 (F) Any change in ownership approved by the Probate Court;

531 (G) Devolution of title to a surviving joint tenant, or to a trustee,  
532 executor or administrator under the terms of a testamentary trust or  
533 will, or by intestate succession;

534 (H) Corporate reorganization not substantially affecting the  
535 ownership of the establishment;

536 (I) The issuance of stock or other securities of an entity which owns  
537 or operates an establishment;

538 (J) The transfer of stock, securities or other ownership interests  
539 representing less than forty per cent of the ownership of the entity that

540 owns or operates the establishment;

541 (K) Any conveyance of an interest in an establishment where the  
542 transferor is the sibling, spouse, child, parent, grandparent, child of a  
543 sibling or sibling of a parent of the transferee;

544 (L) Conveyance of an interest in an establishment to a trustee of an  
545 inter vivos trust created by the transferor solely for the benefit of one  
546 or more siblings, spouses, children, parents, grandchildren, children of  
547 a sibling or siblings of a parent of the transferor;

548 (M) Any conveyance of a portion of a parcel upon which portion no  
549 establishment is or has been located and upon which there has not  
550 occurred a discharge, spillage, uncontrolled loss, seepage or filtration  
551 of hazardous waste, provided either the area of such portion is not  
552 greater than fifty per cent of the area of such parcel or written notice of  
553 such proposed conveyance and an environmental condition  
554 assessment form for such parcel is provided to the commissioner sixty  
555 days prior to such conveyance;

556 (N) Conveyance of a service station, as defined in subdivision (5) of  
557 this section;

558 (O) Any conveyance of an establishment which, prior to July 1, 1997,  
559 had been developed solely for residential use and such use has not  
560 changed;

561 (P) Any conveyance of an establishment to any entity created or  
562 operating under chapter 130 or 132, or to an urban rehabilitation  
563 agency, as defined in section 8-292, or to a municipality under section  
564 32-224, or to the Connecticut Development Authority or any  
565 subsidiary of the authority;

566 (Q) Any conveyance of a parcel in connection with the acquisition of  
567 properties to effectuate the development of the overall project, as  
568 defined in section 32-651;

569 (R) The conversion of a general or limited partnership to a limited

570 liability company under section 34-199;

571 (S) The transfer of general partnership property held in the names of  
572 all of its general partners to a general partnership which includes as  
573 general partners immediately after the transfer all of the same persons  
574 as were general partners immediately prior to the transfer;

575 (T) The transfer of general partnership property held in the names  
576 of all of its general partners to a limited liability company which  
577 includes as members immediately after the transfer all of the same  
578 persons as were general partners immediately prior to the transfer;

579 (U) Acquisition of an establishment by any governmental or quasi-  
580 governmental condemning authority;

581 (V) Conveyance of any real property or business operation that  
582 would qualify as an establishment solely as a result of (i) the  
583 generation of more than one hundred kilograms of universal waste in  
584 a calendar month, (ii) the storage, handling or transportation of  
585 universal waste generated at a different location, or (iii) activities  
586 undertaken at a universal waste transfer facility, provided any such  
587 real property or business operation does not otherwise qualify as an  
588 establishment; there has been no discharge, spillage, uncontrolled loss,  
589 seepage or filtration of a universal waste or a constituent of universal  
590 waste that is a hazardous substance at or from such real property or  
591 business operation; and universal waste is not also recycled, treated,  
592 except for treatment of a universal waste pursuant to 40 CFR  
593 273.13(a)(2) or (c)(2) or 40 CFR 273.33 (a)(2) or (c)(2), or disposed of at  
594 such real property or business operation; [or]

595 (W) Conveyance of a unit in a residential common interest  
596 community in accordance with section 22a-134i;

597 (X) Acquisition of an establishment that is in the abandoned  
598 brownfield cleanup program established pursuant to section 32-91l, as  
599 amended by this act, and all subsequent transfers of the establishment,  
600 provided the establishment is undergoing remediation or is

601 remediated in accordance with subsection (f) of said section 32-9ll; or

602 (Y) Any transfer of title from a bankruptcy court or a municipality  
603 to a nonprofit organization.

604 Sec. 12. Section 22a-133aa of the general statutes is amended by  
605 adding subsection (g) as follows (*Effective from passage*):

606 (NEW) (g) Any prospective purchaser or municipality remediating  
607 property pursuant to the abandoned brownfield cleanup program  
608 established pursuant to section 32-9ll, as amended by this act, shall  
609 qualify for a covenant not to sue from the Commissioner of  
610 Environmental Protection without fee. Such covenant not to sue shall  
611 be transferable to subsequent owners provided the establishment is  
612 undergoing remediation or is remediated in accordance with  
613 subsection (f) of said section 32-9ll.

614 Sec. 13. Section 22a-133o of the general statutes is repealed and the  
615 following is substituted in lieu thereof (*Effective from passage*):

616 (a) An owner of land may execute and record an environmental use  
617 restriction under sections 22a-133n to 22a-133r, inclusive, on the land  
618 records of the municipality in which such land is located if (1) the  
619 commissioner has adopted standards for the remediation of  
620 contaminated land pursuant to section 22a-133k, as amended by this  
621 act, and adopted regulations pursuant to section 22a-133q, as amended  
622 by this act, (2) the commissioner, or in the case of land for which  
623 remedial action was supervised under section 22a-133y, a licensed  
624 environmental professional, determines, as evidenced by his signature  
625 on such restriction, that it is consistent with the purposes and  
626 requirements of sections 22a-133n to 22a-133r, inclusive, as amended  
627 by this act, and of such standards and regulations, and (3) such  
628 restriction will effectively protect public health and the environment  
629 from the hazards of pollution. An environmental use restriction may  
630 be in the form of either an environmental land use restriction in  
631 accordance with subsection (b) of this section or a notice of activity and  
632 use limitation in accordance with subsection (c) of this section.

633 (b) (1) No owner of land may record an environmental land use  
634 restriction on the land records of the municipality in which such land  
635 is located unless he simultaneously records documents which  
636 demonstrate that each person holding an interest in such land or any  
637 part thereof, including without limitation each mortgagee, lessee,  
638 lienor and encumbrancer, irrevocably subordinates such interest to the  
639 environmental land use restriction provided the commissioner may  
640 waive such requirement if he finds that the interest in such land is so  
641 minor as to be unaffected by the environmental land use restriction.  
642 An environmental land use restriction shall run with land, shall bind  
643 the owner of the land and his successors and assigns, and shall be  
644 enforceable notwithstanding lack of privity of estate or contract or  
645 benefit to particular land.

646 [(c) Within] (2) Not later than seven days [of] after executing an  
647 environmental land use restriction and receiving thereon the signature  
648 of the commissioner or licensed environmental professional, as the  
649 case may be, the owner of the land involved therein shall record such  
650 restriction and documents required under [subsection (b) of this  
651 section] subdivision (1) of this subsection on the land records of the  
652 municipality in which such land is located and shall submit to the  
653 commissioner a certificate of title certifying that each interest in such  
654 land or any part thereof is irrevocably subordinated to the  
655 environmental land use restriction in accordance with [said subsection  
656 (b)] subdivision (1) of this subsection.

657 [(d)] (3) An owner of land with respect to which an environmental  
658 land use restriction applies may be released, wholly or in part, from  
659 the limitations of such restriction only with the commissioner's written  
660 approval which shall be consistent with the regulations adopted  
661 pursuant to section 22a-133q, as amended by this act, and shall be  
662 recorded on the land records of the municipality in which such land is  
663 located provided the commissioner may waive the requirement to  
664 record such release if he finds that the activity which is the subject of  
665 such release does not affect the overall purpose for which the  
666 environmental land use restriction was implemented and does not

667 alter the size of the area subject to the environmental land use  
668 restriction. The commissioner shall not approve any such release  
669 unless the owner demonstrates that he has remediated the land, or  
670 such portion thereof as would be affected by the release, in accordance  
671 with the standards established pursuant to section 22a-133k, as  
672 amended by this act.

673 [(e)] (4) An environmental land use restriction shall survive  
674 foreclosure of a mortgage, lien or other encumbrance.

675 (c) (1) A notice of activity and use limitation may only be used and  
676 recorded for releases remediated in accordance with the regulations  
677 adopted pursuant to sections 22a-133k and 22a-133q, as amended by  
678 this act, for the following purposes:

679 (A) To achieve compliance with industrial or commercial direct  
680 exposure criteria, groundwater volatilization criteria, and soil vapor  
681 criteria set forth in regulations adopted pursuant to section 22a-133k,  
682 as amended by this act, by preventing residential activity and use of  
683 the area affected by the notice of activity and use limitation, provided  
684 the property is both zoned for industrial or commercial activity and  
685 not currently used for any residential activity, as such activities are  
686 defined to exclude residential activity in regulations adopted pursuant  
687 to section 22a-133k, as amended by this act;

688 (B) To prevent disturbance of polluted soil that exceeds the  
689 applicable direct exposure criteria but is inaccessible, in compliance  
690 with the provisions of regulations adopted pursuant to section 22a-  
691 133k, as amended by this act, provided pollutant concentrations in  
692 such inaccessible soil do not exceed ten times the applicable direct  
693 exposure criteria;

694 (C) To prevent disturbance of an engineered control to the extent  
695 such engineered control is for the sole remedial purpose of eliminating  
696 exposure to polluted soil that exceeds the direct exposure criteria,  
697 provided pollutant concentrations in such soil do not exceed ten times  
698 the applicable direct exposure criteria;

699     (D) To prevent demolition of a building or permanent structure that  
700     renders polluted soil environmentally isolated, provided either: (i) The  
701     pollutant concentrations in the environmentally isolated soil do not  
702     exceed ten times the applicable direct exposure criteria and the  
703     applicable pollutant mobility criteria, or (ii) the total volume of soil  
704     that is environmentally isolated is less than or equal to ten cubic yards;  
705     or

706     (E) Any other purpose the commissioner may prescribe by  
707     regulation.

708     (2) No owner shall record a notice of activity and use limitation on  
709     the land records of the municipality in which such land is located  
710     unless the owner provides written notice to each person holding an  
711     interest in such land or any part thereof, including, without limitation,  
712     each mortgagee, lessee, lienor and encumbrancer, not later than sixty  
713     days before the recording of such notice. Such notice of the proposed  
714     notice of activity and use limitation shall be sent by certified mail,  
715     return receipt requested, and shall include notice of the existence and  
716     location of pollution within such area and the terms of such proposed  
717     notice of activity and use limitation. Such sixty-day-notice period may  
718     be waived upon the written agreement of all interest holders.

719     (3) A notice of activity and use limitation recorded pursuant to this  
720     subsection shall be implemented and adhered to by the owner that  
721     records such notice and the owner's successors, assigns, grantees or  
722     transferees, including those persons receiving from the owner a  
723     property interest or a license to use such property or conduct  
724     remediation on any portion of such property.

725     (4) A notice of activity and use limitation shall be deemed  
726     implemented and shall be in effect upon being duly recorded on the  
727     land records of the municipality in which such property is located.

728     (5) (A) A notice of activity and use limitation shall be prepared on a  
729     form as prescribed by the commissioner.

730     (B) A notice of activity and use limitation decision document, signed  
731 by the commissioner or signed and sealed by a licensed environmental  
732 professional, shall be referenced in and recorded with the notice of  
733 activity and use limitation, and shall specify:

734     (i) Why the notice of activity and use limitation is appropriate to  
735 achieve and maintain compliance with the regulations adopted  
736 pursuant to section 22a-133k, as amended by this act;

737     (ii) Activities and uses that are inconsistent with maintaining  
738 compliance with such regulations;

739     (iii) Activities and uses to be permitted;

740     (iv) Obligations and conditions necessary to meet the objectives of  
741 the notice of activity and use limitation; and

742     (v) The nature and extent of pollution in the area that is the basis for  
743 the notice of activity and use limitation, including a listing of  
744 contaminants and concentrations for such contaminants, and the  
745 horizontal and vertical extent of such contaminants.

746     (6) Upon transfer of any interest in or a right to use property, or a  
747 portion of property, that is subject to a notice of activity and use  
748 limitation, the owner of such land, any lessee of such land, and any  
749 person who can subdivide or sublease the property, shall incorporate  
750 such notice either in full or by reference into all future deeds,  
751 easements, mortgages, leases, licenses, occupancy agreements or any  
752 other instrument of transfer.

753     Sec. 14. Section 22a-133p of the general statutes is repealed and the  
754 following is substituted in lieu thereof (*Effective from passage*):

755     (a) The Attorney General, at the request of the commissioner, shall  
756 institute a civil action in the superior court for the judicial district of  
757 Hartford or for the judicial district wherein the subject land is located  
758 for injunctive or other equitable relief to enforce an environmental use  
759 restriction or the provisions of sections 22a-134n to 22a-133q, inclusive,



760 as amended by this act, and regulations adopted thereunder or to  
761 recover a civil penalty pursuant to subsection (e) of this section.

762 (b) The commissioner may issue orders pursuant to sections 22a-6,  
763 as amended by this act, and 22a-7 to enforce an environmental use  
764 restriction or the provisions of sections 22a-134n to 22a-133q, inclusive,  
765 as amended by this act, and regulations adopted thereunder.

766 (c) In any administrative or civil proceeding instituted by the  
767 commissioner to enforce an environmental use restriction or the  
768 provisions of sections 22a-134n to 22a-133q, inclusive, as amended by  
769 this act, and regulations adopted thereunder, any other person may  
770 intervene as a matter of right.

771 (d) In any civil or administrative action to enforce an environmental  
772 use restriction or the provisions of sections 22a-134n to 22a-133q,  
773 inclusive, as amended by this act, and regulations adopted thereunder,  
774 the owner of the subject land, and any lessee thereof, shall be strictly  
775 liable for any violation of such restriction or the provisions of sections  
776 22a-134n to 22a-133q, inclusive, as amended by this act, and  
777 regulations adopted thereunder and shall be jointly and severally  
778 liable for abating such violation.

779 (e) Any owner of land with respect to which an environmental use  
780 restriction applies, and any lessee of such land, who violates any  
781 provision of such restriction, fails to adhere to such restriction or  
782 violates the provisions of sections 22a-134n to 22a-133q, inclusive, as  
783 amended by this act, and regulations adopted thereunder shall be  
784 assessed a civil penalty under section 22a-438. The penalty provided in  
785 this subsection shall be in addition to any injunctive or other equitable  
786 relief.

787 Sec. 15. Section 22a-133q of the general statutes is repealed and the  
788 following is substituted in lieu thereof (*Effective from passage*):

789 The commissioner shall adopt regulations, in accordance with the  
790 provisions of chapter 54, to carry out the purposes of sections 22a-133n

791 to 22a-133r, inclusive, as amended by this act. Such regulations may  
792 include, but not be limited to, provisions regarding the form, contents,  
793 fees, financial surety, monitoring and reporting, filing procedure for,  
794 and release from, environmental use restrictions.

795 Sec. 16. Section 2 of public act 10-135 is repealed and the following is  
796 substituted in lieu thereof (*Effective from passage*):

797 (a) There is established a working group to examine the remediation  
798 and development of brownfields in this state, including, but not  
799 limited to, the remediation scheme for such properties, permitting  
800 issues and liability issues, including those set forth by sections 22a-14  
801 to 22a-20, inclusive, of the general statutes.

802 (b) The working group shall consist of the following [eleven]  
803 thirteen members, each of whom shall have expertise related to  
804 brownfield redevelopment in environmental law, engineering, finance,  
805 development, consulting, insurance or another relevant field:

806 (1) [Two] Four appointed by the Governor;

807 (2) One appointed by the president pro tempore of the Senate;

808 (3) One appointed by the speaker of the House of Representatives;

809 (4) One appointed by the majority leader of the Senate;

810 (5) One appointed by the majority leader of the House of  
811 Representatives;

812 (6) One appointed by the minority leader of the Senate;

813 (7) One appointed by the minority leader of the House of  
814 Representatives;

815 (8) The Commissioner of Economic and Community Development  
816 or the commissioner's designee, who shall serve ex officio;

817 (9) The Commissioner of Environmental Protection or the

818 commissioner's designee, who shall serve ex officio; and

819 (10) The Secretary of the Office of Policy and Management or the  
820 secretary's designee, who shall serve ex officio.

821 (c) [All] Any member of the working group as of the effective date  
822 of this section shall continue to serve and all new appointments to the  
823 working group shall be made no later than thirty days after the  
824 effective date of this section. Any vacancy shall be filled by the  
825 appointing authority.

826 (d) The [working group shall select] Commissioners of Economic  
827 and Community Development and Environmental Protection shall  
828 serve as chairpersons of the working group. [from among the  
829 appointed members of the working group.] Such chairpersons shall  
830 schedule the first meeting of the working group, which shall be held  
831 no later than sixty days after the effective date of this section.

832 (e) On or before [January 15, 2011] February 15, 2012, the working  
833 group shall report, in accordance with the provisions of section 11-4a  
834 of the general statutes, on its findings and recommendations to the  
835 joint standing committee of the General Assembly having cognizance  
836 of matters relating to commerce.

837 Sec. 17. (NEW) (*Effective July 1, 2011*) (a) As used in this section:

838 (1) "Blight" means a pervasive condition in which property, whether  
839 or not used for its intended purpose, is in a state of dilapidation or  
840 decay, open to the elements, unable to provide shelter, or unable to  
841 serve the purpose for which it was constructed due to damage,  
842 dilapidation or decay.

843 (2) "Bona fide prospective purchaser" means a person that acquires  
844 ownership of a property after January 1, 2012, and establishes by a  
845 preponderance of the evidence that:

846 (A) All disposal of regulated substances at the property occurred  
847 before the person acquired the property;

848 (B) Such person made all appropriate inquiries, as set forth in 40  
849 CFR Part 312, into the previous ownership and uses of the property in  
850 accordance with generally accepted good commercial and customary  
851 standards and practices, including, but not limited to, the standards  
852 and practices set forth in the ASTM Standard Practice for  
853 Environmental Site Assessments, Phase I Environmental Site  
854 Assessment Process, E1527-05. In the case of property in residential or  
855 other similar use at the time of purchase by a nongovernmental or  
856 noncommercial entity, a property inspection and title search that  
857 reveal no basis for further investigation shall be considered to satisfy  
858 the requirements of this subparagraph;

859 (C) Such person provides all legally required notices with respect to  
860 the discovery or release of any regulated substances at the property;

861 (D) Such person exercises appropriate care with respect to regulated  
862 substances found at the property by taking reasonable steps to (i) stop  
863 any continuing release, (ii) prevent any threatened future release, and  
864 (iii) prevent or limit human, environmental or natural resource  
865 exposure to any previously released regulated substance;

866 (E) Such person provides full cooperation, assistance and access to  
867 persons authorized to conduct response actions or natural resource  
868 restoration at the property, including, but not limited to, the  
869 cooperation and access necessary for the installation, integrity,  
870 operation and maintenance of any complete or partial response actions  
871 or natural resource restoration at the property;

872 (F) Such person complies with any land use restrictions established  
873 or relied on in connection with the response action at the property and  
874 does not impede the effectiveness or integrity of any institutional  
875 control employed at the property in connection with a response action;  
876 and

877 (G) Such person complies with any request for information from the  
878 Commissioner of Environmental Protection.

879 (3) "Brownfield" has the same meaning as provided in section 32-  
880 9kk of the general statutes, as amended by this act.

881 (4) "Brownfield investigation plan and remediation schedule" means  
882 a plan and schedule for investigation and a schedule for remediation  
883 of an eligible property under this section. Such investigation plan and  
884 remediation schedule shall include both interim status or other  
885 appropriate interim target dates and a date for project completion not  
886 later than five years after a licensed environmental professional  
887 submits such investigation plan and remediation schedule to the  
888 Commissioner of Environmental Protection, provided the  
889 Commissioner of Environmental Protection may extend such dates for  
890 good cause. The plan shall provide a schedule for activities including,  
891 but not limited to, completion of the investigation of the property in  
892 accordance with prevailing standards and guidelines, submittal of a  
893 complete investigation report, submittal of a detailed written plan for  
894 remediation, completion of remediation in accordance with standards  
895 adopted by said commissioner pursuant to section 22a-133k of the  
896 general statutes, as amended by this act, and submittal to said  
897 commissioner of a final remedial action report. Except as otherwise  
898 provided in this section, in any detailed written plan for remediation  
899 submitted under this section, the applicant shall only be required to  
900 investigate and remediate conditions existing within the property  
901 boundaries and shall not be required to investigate or remediate any  
902 pollution or contamination that exists outside of the property's  
903 boundaries, including any contamination that may exist or has  
904 migrated to sediments, rivers, streams or off site.

905 (5) "Contiguous property owner" means a person who owns real  
906 property contiguous to or otherwise similarly situated with respect to,  
907 and that is or may be contaminated by a release or threatened release  
908 of a regulated substance from, real property that is not owned by that  
909 person, provided:

910 (A) With respect to the property owned by such person, such person  
911 takes reasonable steps to (i) stop any continuing release of any

912 regulated substance released on or from the property, (ii) prevent any  
913 threatened future release of any regulated substance released on or  
914 from the property, and (iii) prevent or limit human, environmental or  
915 natural resource exposure to any regulated substance released on or  
916 from the property;

917 (B) Such person provides full cooperation, assistance and access to  
918 persons authorized to conduct response actions or natural resource  
919 restoration at the property from which there has been a release or  
920 threatened release, including, but not limited to, the cooperation and  
921 access necessary for the installation, integrity, operation and  
922 maintenance of any complete or partial response action or natural  
923 resource restoration at the property;

924 (C) Such person complies with any land use restrictions established  
925 or relied on in connection with the response action at the property and  
926 does not impede the effectiveness or integrity of any institutional  
927 control employed in connection with a response action;

928 (D) Such person complies with any request for information from the  
929 Commissioner of Environmental Protection; and

930 (E) Such person provides all legally required notices with respect to  
931 the discovery or release of any hazardous substances at the property.

932 (6) "Director" means the Director of the Office of Brownfield  
933 Remediation and Development.

934 (7) "Distressed municipality" has the same meaning as provided in  
935 section 32-9p of the general statutes.

936 (8) "Economic development agency" means a municipality,  
937 municipal economic development agency or entity created or  
938 operating under chapter 130 or 132 of the general statutes, nonprofit  
939 economic development corporation formed to promote the common  
940 good, general welfare and economic development of a municipality  
941 that is funded, either directly or through in-kind services, in part by a

942 municipality, or nonstock corporation or limited liability company  
943 established or controlled by a municipality, municipal economic  
944 development agency or entity created or operating under chapter 130  
945 or 132 of the general statutes.

946 (9) "Innocent landowner" has the same meaning as provided in  
947 section 22a-452d of the general statutes.

948 (10) "Interim verification" has the same meaning as provided in  
949 section 22a-134 of the general statutes, as amended by this act.

950 (11) "Municipality" means any town, city or borough.

951 (12) "National priorities list" means the list of hazardous waste  
952 disposal sites compiled by the United States Environmental Protection  
953 Agency pursuant to 42 USC 9605.

954 (13) "Open space land" has the same meaning as provided in section  
955 12-107b of the general statutes.

956 (14) "Person" means any individual, firm, partnership, association,  
957 syndicate, company, trust, corporation, limited liability company,  
958 municipality, economic development agency, agency or political or  
959 administrative subdivision of the state and any other legal entity.

960 (15) "Principles of smart growth" means standards and objectives  
961 that support and encourage smart growth when used to guide actions  
962 and decisions, including, but not limited to, standards and criteria for  
963 (A) integrated planning or investment that coordinates tax,  
964 transportation, housing, environmental and economic development  
965 policies at the state, regional and local level, (B) the reduction of  
966 reliance on the property tax by municipalities by creating efficiencies  
967 and coordination of services on the regional level while reducing  
968 interlocal competition for grand list growth, (C) the redevelopment of  
969 existing infrastructure and resources, including, but not limited to,  
970 brownfields and historic places, (D) transportation choices that  
971 provide alternatives to automobiles, including rail, public transit,

972 bikeways and walking, while reducing energy consumption, (E) the  
973 development or preservation of housing affordable to households of  
974 varying income in locations proximate to transportation or  
975 employment centers or locations compatible with smart growth, (F)  
976 concentrated, mixed-use, mixed income development proximate to  
977 transit nodes and civic, employment or cultural centers, and (G) the  
978 conservation and protection of natural resources by (i) preserving open  
979 space, water resources, farmland, environmentally sensitive areas and  
980 historic properties, and (ii) furthering energy efficiency.

981 (16) "Regulated substance" means any element, compound or  
982 material that, when added to air, water, soil or sediment, may alter the  
983 physical, chemical, biological or other characteristic of such air, water,  
984 soil or sediment.

985 (17) "Release" means any discharge, spillage, uncontrolled loss,  
986 seepage, filtration, leakage, injection, escape, dumping, pumping,  
987 pouring, emitting, emptying or disposal of a substance.

988 (18) "Smart growth" means economic, social and environmental  
989 development that (A) promotes, through financial and other  
990 incentives, economic competitiveness in the state while preserving  
991 natural resources, and (B) uses a collaborative approach to planning,  
992 decision-making and evaluation between and among all levels of  
993 government and the communities and the constituents they serve.

994 (19) "Transit-oriented development" has the same meaning as  
995 provided in section 13b-79o of the general statutes.

996 (20) "Verification" has the same meaning as provided in section 22a-  
997 134 of the general statutes, as amended by this act.

998 (b) The Office of Brownfield Remediation and Development shall  
999 establish a comprehensive brownfield remediation and revitalization  
1000 program to provide certain liability protections to program  
1001 participants. Not more than twenty properties a year shall be accepted  
1002 into the program and a new property shall be added upon the



1003 withdrawal of a property from the program or upon a notice of  
1004 completion of remedy and no further action letter issued pursuant to  
1005 this section. Participation in the program shall be by accepted  
1006 application pursuant to subsection (c) of this section or by nomination  
1007 pursuant to subsection (d) of this section and shall be based, at said  
1008 office's discretion, on at least one of the following criteria: (1) The likely  
1009 creation of jobs, including, but not limited to, those related to  
1010 remediation, design, development and construction; (2) the projected  
1011 increase to the municipal grand list; (3) the consistency of the property  
1012 as remediated and developed with municipal or regional planning  
1013 objectives; and (4) the development plan's support for and furtherance  
1014 of principles of smart growth or transit-oriented development.

1015 (c) The office shall accept applications for participation in the  
1016 program established pursuant to subsection (b) of this section from  
1017 any innocent landowner, bona fide prospective purchaser,  
1018 municipality, economic development agency or contiguous property  
1019 owner purchasing a brownfield, provided such applicant (1) did not  
1020 establish, create or maintain a source of pollution to the waters of the  
1021 state for purposes of section 22a-432 of the general statutes and is not  
1022 responsible pursuant to any other provision of the general statutes for  
1023 any pollution or source of pollution on the property; and (2) is not  
1024 affiliated with any person responsible for such pollution or source of  
1025 pollution through any direct or indirect familial relationship or any  
1026 contractual, corporate or financial relationship other than that by  
1027 which such purchaser's interest in such property is to be conveyed or  
1028 financed.

1029 (d) The office shall accept nominations for participation in the  
1030 program established pursuant to subsection (b) of this section from a  
1031 municipality or an economic development agency.

1032 (e) (1) Any eligible person making application must demonstrate to  
1033 the director that: (A) The property meets the definition of a brownfield,  
1034 and (B) there has been a release at the property of a regulated  
1035 substance in an amount that exceeds the remediation standard

1036 regulations adopted by the Commissioner of Environmental Protection  
1037 pursuant to section 22a-133k of the general statutes, as amended by  
1038 this act.

1039       (2) A property that is currently the subject of an enforcement action,  
1040 including any consent order issued by the Department of  
1041 Environmental Protection or the United States Environmental  
1042 Protection Agency under any current Department of Environmental  
1043 Protection or United States Environmental Protection Agency program  
1044 or that is listed on the national priorities list shall not be eligible to  
1045 participate in the comprehensive brownfield remediation and  
1046 revitalization program.

1047       (3) Properties otherwise eligible for the comprehensive brownfield  
1048 remediation and revitalization program currently being investigated  
1049 and remediated in accordance with the state voluntary remediation  
1050 programs under sections 22a-133x and 22a-133y of the general statutes  
1051 and the covenant not to sue programs under section 22a-133aa or 22a-  
1052 133bb of the general statutes, as amended by this act, may participate  
1053 in said program.

1054       (f) Inclusion of a property within the comprehensive brownfield  
1055 remediation and revitalization program by the director shall not limit  
1056 any person's ability to seek funding for such property under any  
1057 federal, state or municipal grant or loan program, including, but not  
1058 limited to, any state brownfield grant or loan program.

1059       (g) Any applicant seeking a designation of eligibility for a person or  
1060 a property under the comprehensive brownfield remediation and  
1061 revitalization program shall apply to the director at such times and on  
1062 such forms as the director may prescribe and shall pay the Office of  
1063 Brownfield Remediation and Development a fee of ten thousand  
1064 dollars along with its completed application. Such fee shall be  
1065 deposited into the Special Contaminated Property Remediation and  
1066 Insurance Fund established under section 22a-133t of the general  
1067 statutes and such funds shall be for the exclusive use by the

1068 Department of Environmental Protection to address imminent risk to  
1069 public health or the environment associated with pollution that has  
1070 migrated off of any property in the comprehensive brownfield  
1071 remediation and revitalization program. No municipality or economic  
1072 development agency seeking designation of eligibility shall be  
1073 required to pay a fee, provided the municipality or economic  
1074 development agency shall collect and pay the fee upon transfer of the  
1075 property to another person for purposes of development. The  
1076 application shall include a title search, the Phase I Environmental Site  
1077 Assessment conducted by the bona fide prospective purchaser, which  
1078 shall be prepared in accordance with the Department of  
1079 Environmental Protection's Site Characterization Guidance Document,  
1080 a property inspection and a completed environmental condition  
1081 assessment form, as defined in subdivision (17) of section 22a-134 of  
1082 the general statutes, for the eligible property and documentation  
1083 demonstrating satisfaction of the eligibility criteria set forth in  
1084 subsection (b) of this section and such other information as the director  
1085 may request to determine eligibility. The applicant shall certify to the  
1086 director, in writing, that the information contained in its application is  
1087 correct and accurate to the best of the applicant's knowledge and  
1088 belief.

1089 (h) Not later than thirty days after receipt of the application, the  
1090 director shall notify the applicant whether the application is complete  
1091 or incomplete. If the director fails to notify the applicant within thirty  
1092 days after his or her receipt of an application, the application shall be  
1093 deemed complete.

1094 (i) (1) Not later than sixty days after the application is determined or  
1095 deemed to be complete, the director shall notify the applicant whether  
1096 the eligible property is included or not included in the comprehensive  
1097 brownfield remediation and revitalization program. If the director fails  
1098 to notify the applicant within sixty days, the application shall be  
1099 deemed accepted into the comprehensive brownfield remediation and  
1100 revitalization program.

1101       (2) A person whose application has been accepted or deemed  
1102 accepted into the comprehensive brownfield remediation and  
1103 revitalization program shall not be liable to the state or any third party  
1104 for the release of any regulated substance at or from the eligible  
1105 property except and only to the extent that such applicant (A) caused  
1106 or contributed to the release of a regulated substance that is subject to  
1107 remediation or exacerbated such condition, or (B) the Commissioner of  
1108 Environmental Protection determines the existence of any of the  
1109 conditions set forth in subparagraph (C) of subdivision (2) of  
1110 subsection (m) of this section.

1111       (j) (1) A person whose application to the comprehensive brownfield  
1112 remediation and revitalization program has been approved or deemed  
1113 approved by the director (A) shall investigate the release or threatened  
1114 release of any regulated substance within the boundaries of the  
1115 property in accordance with prevailing standards and guidelines and  
1116 remediate such release or threatened release within the boundaries of  
1117 such property in accordance with the brownfield investigation plan  
1118 and remediation schedule, and (B) shall not be required to  
1119 characterize, abate and remediate the release of a regulated substance  
1120 beyond the boundary of the eligible property, except for releases  
1121 caused or contributed to by such person.

1122       (2) Not later than one hundred eighty days after the application is  
1123 determined to be or is deemed complete, or such longer period as may  
1124 be approved by the Commissioner of Environmental Protection upon  
1125 good cause shown, the applicant shall submit to said commissioner  
1126 and the director a brownfield investigation plan and remediation  
1127 schedule that is signed and stamped by a licensed environmental  
1128 professional. Unless otherwise approved in writing by the  
1129 Commissioner of Environmental Protection, the brownfield  
1130 investigation plan and remediation schedule shall provide that not  
1131 later than eight years after the date the application is approved, the  
1132 eligible party shall achieve the investigation and remediate the  
1133 property sufficient to support a final or interim verification. The  
1134 eligible party may request a verification or interim verification

1135 extension, which the Commissioner of Environmental Protection shall  
1136 grant upon certification by the eligible party that (A) such eligible  
1137 party has made reasonable progress toward investigation and  
1138 remediation of the property, and (B) despite best efforts, circumstances  
1139 beyond the control of the eligible party have significantly delayed the  
1140 remediation of the establishment. The applicant shall publish notice of  
1141 such plan and schedule in a newspaper of general circulation within  
1142 the area of the property in accordance with this section, stating that  
1143 such plan and schedule is available for review. Any person may  
1144 provide comments to the applicant on such plan and schedule not later  
1145 than thirty days after the publishing of such notice and provide a copy  
1146 to such commissioner and the director.

1147       (3) Not later than sixty days after providing public notice of such  
1148 plan and schedule, the applicant shall submit to the commissioner and  
1149 the director a response to any public comments. Not later than sixty  
1150 days after receiving the applicant's response to public comments, the  
1151 Commissioner of Environmental Protection shall notify the applicant  
1152 and the director as to whether such plan and schedule is approved in  
1153 full or in part or rejected in full or in part, with an explanation of the  
1154 reasons for the decision. If said commissioner neither approves nor  
1155 rejects such plan and schedule within such time frame, such plan and  
1156 schedule shall be deemed approved. The applicant shall have thirty  
1157 days to respond to any disapproval or rejection by said commissioner  
1158 and the time frames set forth in this section for comment and response  
1159 shall continue until said commissioner approves such plan and  
1160 schedule, such plan and schedule is deemed approved or the applicant  
1161 has notified said commissioner of its withdrawal from the program's  
1162 application process.

1163       (4) Before commencement of remedial action pursuant to the  
1164 approved plan and schedule, the applicant shall: (A) Publish notice of  
1165 the remedial action in a newspaper having a substantial circulation in  
1166 the town where the property is located, (B) notify the director of health  
1167 of the municipality where the property is located, and (C) either (i)  
1168 erect and maintain for at least thirty days in a legible condition a sign

1169 not less than six feet by four feet on the property, which shall be clearly  
1170 visible from the public highway and shall include the words  
1171 "ENVIRONMENTAL CLEAN-UP IN PROGRESS AT THIS SITE. FOR  
1172 FURTHER INFORMATION CONTACT:" and include a telephone  
1173 number for an office from which any interested person may obtain  
1174 additional information about the remedial action, or (ii) mail notice of  
1175 the remedial action to each owner of record of property which abuts  
1176 such property, at the address on the last-completed grand list of the  
1177 relevant town.

1178 (5) The remedial action shall be conducted under the supervision of  
1179 a licensed environmental professional and the final remedial action  
1180 report shall be submitted to the director signed and stamped by a  
1181 licensed environmental professional. In such report, the licensed  
1182 environmental professional shall include a detailed description of the  
1183 remedial actions taken and issue a verification or interim verification,  
1184 in which he or she shall render an opinion, in accordance with the  
1185 standard of care provided in subsection (c) of section 22a-133w of the  
1186 general statutes, that the action taken to contain, remove or mitigate  
1187 the release of regulated substances within the boundaries of such  
1188 property is in accordance with the remediation standards adopted by  
1189 the commissioner pursuant to section 22a-133k of the general statutes,  
1190 as amended by this act.

1191 (6) All applications for permits required to implement such plan  
1192 and schedule in this section shall be submitted to the permit  
1193 ombudsman within the Department of Economic and Community  
1194 Development.

1195 (7) Each applicant participating in the comprehensive brownfield  
1196 remediation and revitalization program shall maintain all records  
1197 related to its implementation of such plan and schedule and  
1198 completion of the remedial action of the property for a period of not  
1199 less than ten years and shall make such records available to the  
1200 commissioner or the director at any time upon request by either.

1201       (8) (A) Any final remedial action report submitted by a licensed  
1202 environmental professional to said commissioner and the director for  
1203 the property shall be deemed approved unless, not later than ninety  
1204 days after such submittal, said commissioner determines, in his or her  
1205 sole discretion, and provides notice of such determination to the  
1206 applicant and the director, that an audit of such remedial action is  
1207 necessary to assess whether remedial action beyond that which is  
1208 detailed in such report is necessary for the protection of human health  
1209 or the environment. Such an audit shall be conducted not later than six  
1210 months after such determination. Within fourteen days of completion  
1211 of an audit, said commissioner shall send written audit findings to the  
1212 applicant, the director and the licensed environmental professional.  
1213 The audit findings may approve or disapprove the report, provided  
1214 any disapproval shall set forth the reasons for such disapproval.

1215       (B) The commissioner may request additional information during an  
1216 audit. If such information has not been provided to the commissioner  
1217 within fourteen days of such request, the time frame for the  
1218 commissioner to complete the audit shall be suspended until the  
1219 information is provided to the commissioner.

1220       (C) The commissioner shall not conduct an audit of a final  
1221 verification after ninety days from receipt of such verification unless (i)  
1222 the commissioner has reason to believe that a verification was obtained  
1223 through the submittal of materially inaccurate or erroneous  
1224 information, or otherwise misleading information material to the  
1225 verification or that material misrepresentations were made in  
1226 connection with the submittal of the verification, (ii) post-verification  
1227 monitoring or operations and maintenance is required as part of a  
1228 verification and has not been done, (iii) a verification that relies upon  
1229 an environmental land use restriction was not recorded on the land  
1230 records of the municipality in which such land is located in accordance  
1231 with section 22a-133o of the general statutes, as amended by this act, of  
1232 the general statutes and applicable regulations, (iv) the commissioner  
1233 determines that there has been a violation of law material to the  
1234 verification, or (v) the commissioner determines that information exists

1235 indicating that the remediation may have failed to prevent a  
1236 substantial threat to public health or the environment for releases on  
1237 the property.

1238 (k) Not later than sixty days after receiving a notice of disapproval  
1239 of remedial action report from the Commissioner of Environmental  
1240 Protection, the applicant may submit to said commissioner and to the  
1241 director a report of cure of noted deficiencies. Within sixty days after  
1242 receiving such report of cure of noted deficiencies by said  
1243 commissioner, said commissioner may provide a written disapproval  
1244 of such report of cure of noted deficiencies. If said commissioner does  
1245 not provide a written disapproval of the report, the report will be  
1246 deemed approved and said commissioner shall issue a notice of  
1247 completion of remedy and no further action letter.

1248 (l) Before approving a final remedial action report or the remedial  
1249 action report being deemed approved, the Commissioner of  
1250 Environmental Protection may enter into a memorandum of  
1251 understanding with the applicant with regard to any further remedial  
1252 action or monitoring activities on or at such property that said  
1253 commissioner deems necessary for the protection of human health or  
1254 the environment.

1255 (m) (1) An applicant who has been accepted into the comprehensive  
1256 brownfield remediation and revitalization program shall have no  
1257 obligation as part of its plan and schedule to characterize, abate and  
1258 remediate any plume of a regulated substance outside the boundaries  
1259 of the subject property, provided the notification requirements of  
1260 section 22a-6u of the general statutes pertaining to significant  
1261 environmental hazards shall continue to apply to the property and the  
1262 applicant shall not be required to characterize, abate or remediate any  
1263 such significant environmental hazard outside the boundaries of the  
1264 subject property unless such significant environmental hazard arises  
1265 from the actions of the applicant after its acquisition of or control over  
1266 the property from which such significant environmental hazard has  
1267 emanated outside its own boundaries. If an applicant who has been



1268 accepted into the comprehensive brownfield remediation and  
1269 revitalization program conveys or otherwise transfers its ownership of  
1270 the subject property, the provisions of this section shall apply to such  
1271 transferee, if such transferee meets the eligibility criteria set forth in  
1272 this section and such transferee complies with all the obligations  
1273 undertaken by the applicant under this section.

1274       (2) (A) With the Commissioner of Environmental Protection's  
1275 approval of a final remedial action report or upon the deemed  
1276 approval of such report, said commissioner shall issue a notice of  
1277 completion of remedy and no further action letter that shall provide  
1278 that the applicant is not liable to the state or any third party for (i) costs  
1279 incurred in the remediation of, equitable relief relating to, or damages  
1280 resulting from the release of regulated substances addressed in the  
1281 brownfield investigation plan and remediation schedule, and (ii)  
1282 historical off-site impacts including air deposition, waste disposal,  
1283 impacts to sediments and natural resource damages. The notice of  
1284 completion of remedy and no further action letter shall not afford any  
1285 relief from liability such applicant may have under the corrective  
1286 action program of the Resource Conservation and Recovery Act, 42  
1287 USC 6901 et seq., sections 22a-449(d)-1 and 22a-449(d)-101 to 113 of the  
1288 regulations of Connecticut state agencies and any requirements  
1289 imposed pursuant to the state's superfund requirements.

1290       (B) The notice of completion of remedy and no further action letter  
1291 issued by the Commissioner of Environmental Protection shall extend  
1292 to any person who acquires title to all or part of the property for which  
1293 a remedial action report has been approved pursuant to this subsection  
1294 provided (i) there is payment of a fee of five thousand dollars to said  
1295 commissioner for each such extension, and (ii) such person acquiring  
1296 all or part of the property meets the criteria of this section. No  
1297 municipality or economic development agency that acquires title to all  
1298 or part of the property shall be required to pay a fee, provided the  
1299 municipality or economic development agency shall collect and pay  
1300 the fee upon transfer of the property to another person for purposes of  
1301 development. Such fee shall be deposited into the Special

1302 Contaminated Property Remediation and Insurance Fund established  
1303 under section 22a-133t of the general statutes, and such funds shall be  
1304 for the exclusive use by the Department of Environmental Protection  
1305 to address imminent risk to public health or the environment  
1306 associated with pollution that has migrated off of any property in the  
1307 comprehensive brownfield remediation and revitalization program.

1308 (C) A notice of completion of remedy and no further action letter  
1309 issued pursuant to this section shall not preclude the Commissioner of  
1310 Environmental Protection from taking any appropriate action,  
1311 including, but not limited to, any action to require remediation of the  
1312 property by the applicant or, as applicable, to its successor, if said  
1313 commissioner determines that:

1314 (i) The notice of completion of remedy and no further action letter  
1315 was based on information provided by the person seeking such letter,  
1316 and the Commissioner of Environmental Protection can show that  
1317 such person knew, or had reason to know, was false or misleading,  
1318 and, in the case of the successor to an applicant, that such successor  
1319 was aware or had reason to know that such information was false or  
1320 misleading;

1321 (ii) New information confirms the existence of previously unknown  
1322 contamination that resulted from a release that occurred before the  
1323 date that an application has been accepted or deemed accepted into the  
1324 comprehensive brownfield remediation and revitalization program;

1325 (iii) The applicant who received the notice of completion of remedy  
1326 and no further action letter has materially failed to complete the  
1327 remedial action required by the brownfield investigation plan and  
1328 remediation schedule or to carry out or comply with monitoring,  
1329 maintenance or operating requirements pertinent to a remedial action  
1330 including the requirements of any environmental land use restriction;  
1331 or

1332 (iv) The threat to human health or the environment is increased  
1333 beyond an acceptable level due to substantial changes in exposure

1334 conditions at such property, including, but not limited to, a change  
1335 from nonresidential to residential use of such property.

1336       (3) If an applicant who has been accepted into the comprehensive  
1337 brownfield remediation and revitalization program conveys or  
1338 otherwise transfers all or part of its ownership interest in the subject  
1339 property at any time before the issuance of a notice of completion of  
1340 remedy and no further action letter pursuant to subdivision (2) of this  
1341 subsection, the applicant conveying or otherwise transferring its  
1342 ownership interest shall not be liable to the state or any third party for  
1343 (A) costs incurred in the remediation of, equitable relief relating to, or  
1344 damages resulting from the release of regulated substances addressed  
1345 in the brownfield investigation plan and remediation schedule, and (B)  
1346 historical off-site impacts including air deposition, waste disposal,  
1347 impacts to sediments and natural resource damages, provided the  
1348 applicant complied with its obligations under this section during the  
1349 period when the applicant held an ownership interest in the subject  
1350 property. Nothing in this subsection shall provide any relief from  
1351 liability such applicant may have under the corrective action program  
1352 of the Resource Conservation and Recovery Act, 42 USC 6901 et seq.,  
1353 sections 22a-449(d)-1 and sections 22a-449(d)-101 to 113 of the  
1354 regulations of Connecticut state agencies and any requirements  
1355 imposed pursuant to the state superfund requirements.

1356       (n) On and after the effective date of this section, no eligible person  
1357 accepted into the program shall be required to comply with the  
1358 provisions of sections 22a-134 to 22a-134e, inclusive, of the general  
1359 statutes, as amended by this act, in connection with the transfer of a  
1360 business or real property at which no activities described in  
1361 subdivision (3) of section 22a-134 of the general statutes, have been  
1362 conducted since the date of such approval and for which (1) an  
1363 application has been accepted or deemed accepted into the  
1364 comprehensive brownfield remediation and revitalization program, or  
1365 (2) a brownfield investigation plan and remediation schedule or a final  
1366 remedial action report hereunder has been approved or deemed  
1367 approved by the Commissioner of Environmental Protection.

1368 (o) The director may adopt regulations in accordance with the  
1369 provisions of chapter 54 of the general statutes to implement the  
1370 program established pursuant to this section.

1371 Sec. 18. Section 32-23zz of the general statutes is repealed and the  
1372 following is substituted in lieu thereof (*Effective July 1, 2011*):

1373 (a) For the purpose of assisting (1) any information technology  
1374 project, as defined in subsection (ee) of section 32-23d, which is located  
1375 in an eligible municipality, as defined in subdivision (12) of subsection  
1376 (a) of section 32-9t, or (2) any remediation project, as defined in  
1377 subsection (ii) of section 32-23d, the Connecticut Development  
1378 Authority may, upon a resolution of the legislative body of a  
1379 municipality, issue and administer bonds which are payable solely or  
1380 in part from and secured by: (A) A pledge of and lien upon any and all  
1381 of the income, proceeds, revenues and property of such a project,  
1382 including the proceeds of grants, loans, advances or contributions from  
1383 the federal government, the state or any other source, including  
1384 financial assistance furnished by the municipality or any other public  
1385 body, (B) taxes or payments or grants in lieu of taxes allocated to and  
1386 payable into a special fund of the Connecticut Development Authority  
1387 pursuant to the provisions of subsection (b) of this section, or (C) any  
1388 combination of the foregoing. Any such bonds of the Connecticut  
1389 Development Authority shall mature at such time or times not  
1390 exceeding thirty years from their date of issuance and shall be subject  
1391 to the general terms and provisions of law applicable to the issuance of  
1392 bonds by the Connecticut Development Authority, except that such  
1393 bonds shall be issued without a special capital reserve fund as  
1394 provided in subsection (b) of section 32-23j and, for purposes of section  
1395 32-23f, only the approval of the board of directors of the authority shall  
1396 be required for the issuance and sale of such bonds. Any pledge made  
1397 by the municipality or the Connecticut Development Authority for  
1398 bonds issued as provided in this section shall be valid and binding  
1399 from the time when the pledge is made, and revenues and other  
1400 receipts, funds or moneys so pledged and thereafter received by the  
1401 municipality or the Connecticut Development Authority shall be

1402 subject to the lien of such pledge without any physical delivery thereof  
1403 or further act. The lien of such pledge shall be valid and binding  
1404 against all parties having claims of any kind in tort, contract or  
1405 otherwise against the municipality or the Connecticut Development  
1406 Authority, even if the parties have no notice of such lien. Recording of  
1407 the resolution or any other instrument by which such a pledge is  
1408 created shall not be required. In connection with any such assignment  
1409 of taxes or payments in lieu of taxes, the Connecticut Development  
1410 Authority may, if the resolution so provides, exercise the rights  
1411 provided for in section 12-195h of an assignee for consideration of any  
1412 lien filed to secure the payment of such taxes or payments in lieu of  
1413 taxes. All expenses incurred in providing such assistance may be  
1414 treated as project costs.

1415 (b) Any proceedings authorizing the issuance of bonds under this  
1416 section may contain a provision that taxes or a specified portion  
1417 thereof, if any, identified in such authorizing proceedings and levied  
1418 upon taxable real or personal property, or both, in a project each year,  
1419 or payments or grants in lieu of such taxes or a specified portion  
1420 thereof, by or for the benefit of any one or more municipalities,  
1421 districts or other public taxing agencies, as the case may be, shall be  
1422 divided as follows: (1) In each fiscal year that portion of the taxes or  
1423 payments or grants in lieu of taxes which would be produced by  
1424 applying the then current tax rate of each of the taxing agencies to the  
1425 total sum of the assessed value of the taxable property in the project on  
1426 the date of such authorizing proceedings, adjusted in the case of grants  
1427 in lieu of taxes to reflect the applicable statutory rate of  
1428 reimbursement, shall be allocated to and when collected shall be paid  
1429 into the funds of the respective taxing agencies in the same manner as  
1430 taxes by or for said taxing agencies on all other property are paid; and  
1431 (2) that portion of the assessed taxes or the payments or grants in lieu  
1432 of taxes, or both, each fiscal year in excess of the amount referred to in  
1433 subdivision (1) of this subsection shall be allocated to and when  
1434 collected shall be paid into a special fund of the Connecticut  
1435 Development Authority to be used in each fiscal year, in the discretion

1436 of the Connecticut Development Authority, to pay the principal of and  
1437 interest due in such fiscal year on bonds issued by the Connecticut  
1438 Development Authority to finance, refinance or otherwise assist such  
1439 project, to purchase bonds issued for such project, or to reimburse the  
1440 provider of or reimbursement party with respect to any guarantee,  
1441 letter of credit, policy of bond insurance, funds deposited in a debt  
1442 service reserve fund, funds deposited as capitalized interest or other  
1443 credit enhancement device used to secure payment of debt service on  
1444 any bonds issued by the Connecticut Development Authority to  
1445 finance, refinance or otherwise assist such project, to the extent of any  
1446 payments of debt service made therefrom. Unless and until the total  
1447 assessed valuation of the taxable property in a project exceeds the total  
1448 assessed value of the taxable property in such project as shown by the  
1449 last assessment list referred to in subdivision (1) of this subsection, all  
1450 of the taxes levied and collected and all of the payments or grants in  
1451 lieu of taxes due and collected upon the taxable property in such  
1452 project shall be paid into the funds of the respective taxing agencies.  
1453 When such bonds and interest thereof, and such debt service  
1454 reimbursement to the provider of or reimbursement party with respect  
1455 to such credit enhancement, have been paid in full, all moneys  
1456 thereafter received from taxes or payments or grants in lieu of taxes  
1457 upon the taxable property in such development project shall be paid  
1458 into the funds of the respective taxing agencies in the same manner as  
1459 taxes on all other property are paid. The total amount of bonds issued  
1460 pursuant to this section which are payable from grants in lieu of taxes  
1461 payable by the state shall not exceed an amount of bonds, the debt  
1462 service on which in any state fiscal year is, in total, equal to one million  
1463 dollars.

1464 (c) The authority may make grants or provide loans or other forms  
1465 of financial assistance from the proceeds of special or general  
1466 obligation notes or bonds of the authority issued without the security  
1467 of a special capital reserve fund within the meaning of subsection (b)  
1468 of section 32-23j, which bonds are payable from and secured by, in  
1469 whole or in part, the pledge and security provided for in section 8-134,

1470 8-192, 32-227 or this section, all on such terms and conditions,  
1471 including such agreements with the municipality and the developer of  
1472 the project, as the authority determines to be appropriate in the  
1473 circumstances, provided any such project in an area designated as an  
1474 enterprise zone pursuant to section 32-70 receiving such financial  
1475 assistance shall be ineligible for any fixed assessment pursuant to  
1476 section 32-71, and the authority, as a condition of such grant, loan or  
1477 other financial assistance, may require the waiver, in whole or in part,  
1478 of any property tax exemption with respect to such project otherwise  
1479 available under subsection (59) or (60) of section 12-81.

1480 (d) As used in this section, "bonds" means any bonds, including  
1481 refunding bonds, notes, temporary notes, interim certificates,  
1482 debentures or other obligations; "legislative body" has the meaning  
1483 provided in subsection (w) of section 32-222; and "municipality" means  
1484 a town, city, consolidated town or city or consolidated town and  
1485 borough.

1486 (e) For purposes of this section, references to the Connecticut  
1487 Development Authority shall include any subsidiary of the  
1488 Connecticut Development Authority established pursuant to  
1489 subsection (l) of section 32-11a, and a municipality may act by and  
1490 through its implementing agency, as defined in subsection (k) of  
1491 section 32-222.

1492 [(f) No commitments for new projects shall be approved by the  
1493 authority under this section on or after July 1, 2012.]

1494 [(g)] (f) In the case of a remediation project, as defined in subsection  
1495 (ii) of section 32-23d, that involves buildings that are vacant,  
1496 underutilized or in deteriorating condition and as to which municipal  
1497 real property taxes are delinquent, in whole or in part, for more than  
1498 one fiscal year, the amount determined in accordance with subdivision  
1499 (1) of subsection (b) of this section may, if the resolution of the  
1500 municipality so provides, be established at an amount less than the  
1501 amount so determined, but not less than the amount of municipal

1502 property taxes actually paid during the most recently completed fiscal  
 1503 year. If the Connecticut Development Authority issues bonds for the  
 1504 remediation project, the amount established in the resolution shall be  
 1505 used for all purposes of subsection (a) of this section.

|   |                     |                   |
|---|---------------------|-------------------|
| This act shall take effect as follows and shall amend the following sections: |                     |                   |
| Section 1   | <i>July 1, 2011</i> | 32-9cc            |
| Sec. 2  | <i>July 1, 2011</i> | 32-9ee            |
| Sec. 3  | <i>July 1, 2011</i> | 32-9ff            |
| Sec. 4  | <i>from passage</i> | 22a-134a          |
| Sec. 5  | <i>from passage</i> | 22a-133k          |
| Sec. 6  | <i>from passage</i> | 22a-426           |
| Sec. 7  | <i>from passage</i> | New section       |
| Sec. 8  | <i>July 1, 2011</i> | 32-9kk(a)(1)      |
| Sec. 9  | <i>from passage</i> | 22a-6             |
| Sec. 10   | <i>July 1, 2011</i> | 32-9ll            |
| Sec. 11   | <i>from passage</i> | 22a-134(1)        |
| Sec. 12   | <i>from passage</i> | 22a-133aa         |
| Sec. 13   | <i>from passage</i> | 22a-133o          |
| Sec. 14   | <i>from passage</i> | 22a-133p          |
| Sec. 15   | <i>from passage</i> | 22a-133q          |
| Sec. 16   | <i>from passage</i> | PA 10-135, Sec. 2 |
| Sec. 17   | <i>July 1, 2011</i> | New section       |
| Sec. 18   | <i>July 1, 2011</i> | 32-23zz           |

**Statement of Legislative Commissioners:**

In section 1(g), in the definition of "brownfields", "or reuse of the property" was changed to "or reuse or expansion of the property" for internal consistency; in section 5, "In accordance with the provisions of chapter 54" was deleted for statutory consistency; in section 6(e), references to section 6(f) were replaced with the language from section 6(f) for clarity; in section 10(b)(2), 10(b)(4) and 10(b)(5), "such person" was changed to "such person or municipality" for internal consistency; in section 10(f), two references to "eligible person" were changed to "eligible person or municipality" for internal consistency; in section 17(b) "shall establish a brownfield remediation" was changed to "shall establish a comprehensive brownfield" for internal consistency; in section 17(c), "purchasing a brownfield who (1)" was changed to "purchasing a brownfield, provided such applicant (1)" for clarity;



section 17(e) became section 17(o) and the remaining subsections were relettered for conformity with drafting standards; and in section 17(m), subdivision (2) was relettered with subparagraphs (A), (B) and (C) for clarity.

**CE**        *Joint Favorable Subst.*